DOCKET NO.: 278694US6PCT/khi

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: GROUP: 2624

Tetsujiro KONDO, et al.

SERIAL NO: 10/552,467   EXAMINER: THIRUGNAMNAM, G.

FILED: October 7, 2005

FOR: IMAGE PROCESSING DEVICE, IMAGE PROCESSING METHOD, AND
PROGRAM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.
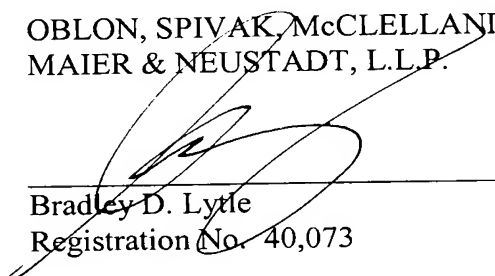
This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
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Bradley D. Lytle
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IN RE APPLICATION OF   :

TETSUJIRO KONDO, ET AL.   : EXAMINER: THIRUGNAMNAM, G.

SERIAL NO: 10/552,467   :

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FOR: IMAGE PROCESSING DEVICE,   :
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REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW
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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Claims 1-16 are pending in the present application. In the Final Office Action of

August 14, 2009 (herein, the FA), independent Claims 1, 8 and 15-16 are rejected under 35

U.S.C. § 112, first paragraph, and under 35 U.S.C. § 103(a) as unpatentable over <u>Kondo et al.</u>

(PG Pub. 2004/0021775, herein <u>Kondo</u>) in view of <u>Burt</u> (U.S. Pat. 5,999,662, herein <u>Burt</u>).

The FA rejects Claims 1, 8, 15 and 16 under 35 U.S.C. § 112, first paragraph,

asserting that the specification fails to provide support for the feature of "... combining the

motion-blurring-mitigated object image ... into a space-time location in each <u>of the multiple</u>

<u>images</u> ..." Applicants respectfully traverse this rejection.

As disclosed in an exemplary embodiment at p. 15, l. 18 – p. 16, l. 17 of the originally

filed disclosure, a motion-blurring-mitigated object image generation section 40 specifies a

region or calculates a mixture ratio based on the motion vector MVC, the processing region

information HZ, and the image data DVa and uses the calculated mixture ratio to separate

foreground component and background component from each other. Furthermore, it

performs a motion blurring adjustment on an image of the separated foreground component

to generate a motion-blurring-mitigated object image. Further, foreground component image

data ***DBf that is image data of the motion-blurring-mitigated object image*** acquired by this

motion-blurring adjustment is supplied to the output section 50. Image data DBb of the

separated background component is also supplied to the output section 50. The output

section 50 ***combines an image of foreground region in which motion blurring based on the***

foreground component image data DBf onto a background image based on the background

component image data DBb, thereby generating image data DVout and outputting it.

Thus, as acknowledged at pp. 2-4 of the Advisory Action of November 4, 2009

(herein, the AA), the specification clearly provides support for the claimed feature of

combining the motion-blurring-mitigated object image (DBf) into a space-time location in the

image from which it was extracted, or in another image, based on a detected motion vector.

Therefore, the basis of contention appears to be whether the specification provides support

for the claimed feature of combining the same motion-blurring-mitigated object image (OBf)

extracted from the original image data (DVa) into subsequent, or multiple, images (i.e. "each

of the multiple images").

In this regard, Applicants note that the bottom of p. 2 of the AA references p. 16 of

the specification and notes that DBf corresponds to a "motion-blurring mitigated object

image". Further, the abstract of the disclosure states that the motion-blurring-mitigated

object image generation section generates "image data DBf of a motion-blurring-mitigated

object image" and Fig. 7 shows that DBf is the output of the motion blurring adjustment

section 44. Therefore, as acknowledged in the AA, and as disclosed throughout the

specification, <u>DBf corresponds to the image data of the motion-blurring-mitigated object</u>

<u>image</u>.

Bearing this definition of OBf in mind, Figs. 24A-25F and p. 47, l. 1 – p. 48, l. 17

further expands on the above noted feature by disclosing that, as shown in Fig. 24, even when

the moving object OBf moves in an order of Figs. 24A, 24B, and 24C (e.g. clearly a

progression of OBf through a time sequence of images), motion blurring of this moving

object OBf has been mitigated as tracking it (i.e. OBf) through each of the time sequence of

images. Further, by controlling a display position of an image so that the image of the

motion-blurring-mitigated moving object OBf may be located to a predetermined position on

a screen on the basis of the moving object OBf, such an image can be output as to track the

moving object OBf.

P. 5 of the AA appears to concede that the above noted portion of the specification

does appear to describe a process of combining OBf into each of a plurality of sequential

images to track the image, but contradicts the previous acknowledgement at the bottom of p.

2 of the AA that OBf corresponds to corresponds to a "motion-blurring mitigated object

image". Specifically, the AA asserts that "[t]he Examiner disagrees that the 'it' refers to the

'motion-blurring-mitigated object image' ... [t]he 'it' refers to the moving object OBf" ...

[t]he first instance of motion-blurring-mitigated object is after the word 'it', so 'it' must

correspond to the moving object OBf."

Therefore, the AA concedes that the image being "tracked" (e.g. combined into

subsequent images) in the above noted portion of the specification is OBf. As discussed

above, p. 2 of the AA, as well as various portions of the specification, disclose that OBf

corresponds to the image data of the motion-blurring-mitigated object image. While the

specification does at times refer to OBf as being the moving object, the context of the

specification clearly discloses that OBf corresponds to the motion-blurring-mitigated image

data of this moving object.

Therefore, the process of tracking the motion-blurring-mitigated object image through an order of images, as discussed above, clearly provides support for the feature of "... combining the motion-blurring-mitigated object image ... into a space-time location in each of the multiple images ...", as recited in independent Claims 1, 8, 15 and 16.

Further, with respect to the written description requirement, there is no *in haec verba* requirement, and claim limitations may be supported by the specification through *express, implicit, or inherent* disclosure.[1] To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention.[2]

Accordingly, Applicants respectfully request that the rejection of Claims 1-8 under 35 U.S.C. § 112, first paragraph, be withdrawn.

The Office Action rejects Claims 1-5, 8-12 and 15-16 under 35 U.S.C. § 103(a) as unpatentable over Kondo '775 in view of Burt. Applicants respectfully traverse this rejection, as Burt fails to teach or suggest the claimed features for which it is asserted as a secondary reference under 35 U.S.C. § 103. Independent Claim 1, for example, recites, *inter alia*, an apparatus for processing an image, said apparatus comprising:

> ... output means for combining *the motion-blurring-mitigated object image ... into a space-time location in each of the multiple images ...*

In rejecting Claim 1, p. 5 of the Office Action concedes that Kondo '775 fails to disclose the above-emphasized claimed feature and cites Fig. 9 of Burt noting "where from a sequence of frames a foreground (residuals) (moving object) is extracted, which is then combined with a mosaic of background frames".

Fig. 9 and col. 14, l. 28 – col. 17, l. 10 of Burt describes a process of separating background and residual images so that a static background mosaic 904 can be generated by

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[1] MPEP § 2163.
[2] *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555 (Fed. Cir. 1991).

combining the separated background images. As described at col. 15, ll. 7-20 of <u>Burt</u>, this static background mosaic 904 is a single image used for searching scenes and extracting a single frame of interest. Thus, the static background mosaic 904 is a <u>single image</u>, and <u>Burt</u> fails to teach or suggest that the separated residual images are added back into the static background mosaic 904, whatsoever.
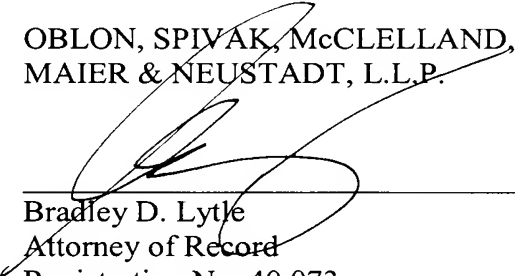
Moreover, even if the separated residual images in <u>Burt</u> were to be added back into the static background mosaic 904, this process would include adding the individual residual images separated from each frame into the static background mosaic 904. Thus, this process would include adding <u>a plurality of residual images</u> into the <u>single</u> static background mosaic 904. This process is the opposite of that recited in Claim 1, which specifies "combining *the motion-blurring-mitigated object image* ... into a space time location in *each of the multiple images*". <u>Burt</u>, on the other hand, at best, possibly describes adding a plurality of extracted residual images into a single background image.

Accordingly, Applicants respectfully request that the rejection of Claims 1, 8 and 15-16 under 35 U.S.C. § 103 be withdrawn.

Based on this clear legal deficiency in the above-noted rejection, Applicants respectfully request that the rejection of Claims 1-16 be withdrawn and prosecution be re-opened as the current grounds of rejection are very clearly deficient.

Respectfully submitted,

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